

## **REMARKS**

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

By the foregoing amendment, claim 24 has been added. No new matter has been added. Claim 24 corresponds to the previously presented claim that was erroneously marked as a second claim 19. Thus, claims 1-24 are currently pending in the application and subject to examination.

### **I. Claim Objection**

In the Office Action dated November 2, 2007, the Examiner noted that there were two claims numbered 19. The second claim 19 has been renumbered as claim 24, responsive to this objection. If any further amendment is required in response to this objection, the Examiner is requested to contact the undersigned representative.

### **II. Claim Rejections**

Claims 1-5, 7, 9-17, 19, and 21-23 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2003/0135863 to Van Der Schaar ("Van"). Under 35 U.S.C. § 103(a), claims 6, 8, 18, and 20 are rejected as being unpatentable over Van in view of U.S. Patent Publication No. 2003/0123393 to Feuerstraeter et al. ("Feu"). The Applicants hereby traverse the rejections as follows.

The Applicants submit that Van does not disclose or suggest a method of offering preferred transport in a network, the method including at least the combination of receiving a first part of a content transmission in the network and receiving an indication of transport parameters in the network, the indication being associated with the content of the content transmission, as recited in claim 1.

In contrast to claim 1, the cited section of Van teaches a system in which multiple data streams may be “representations of the same content” and that a “server selects an appropriate stream to be transmitted . . . [f]or example . . . the data stream having the largest bandwidth range that does not exceed the data rate of the user’s (or users group’s) link is selected.” See paragraphs 25 and 40.

Thus, Van selects a data stream to be transmitted based on a determination of a user’s available bandwidth, whereas the invention in claim 1 includes at least the combination of receiving a first part of a content transmission in the network and receiving an indication of transport parameters in the network, the indication being associated with the content of the content transmission.

The cited section of Feu fails to cure the deficiency in Van.

For at least this reason, the Applicants submit that claim 1 is allowable over Van. As claim 1 is allowable, the Applicants submit that claims 3-13, which depend from allowable claim 1, are therefore also allowable.

The Applicants submit that Van similarly does not disclose or suggest a transmission device comprising a data receiver configured at least to receive a first part of a content transmission and an indication of transport parameters associated with the content of the content transmission in a network, as recited in claim 2.

For at least this reason, the Applicants submit that claim 2 is allowable over the cited art. As claim 2 is allowable, the Applicants submit that claims 14-24, which depend from allowable claim 2, are therefore also allowable.

**CONCLUSION**

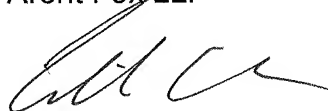
For all of the above reasons, it is respectfully submitted that the claims now pending patentability distinguish the present invention from the cited references. Accordingly, reconsideration and withdrawal of the outstanding rejections and an issuance of a Notice of Allowance are earnestly solicited.

Should the Examiner determine that any further action is necessary to place this application into condition for allowance, the Examiner is encouraged to telephone the undersigned representative at the number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of time. The fee for this extension may be charged to our Deposit Account No. 01-2300. The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment associated with this communication to Deposit Account No. 01-2300 with reference to Attorney Docket No. 026215-00001.

Respectfully submitted,

Arent Fox LLP



Wilburn L. Chesser  
Attorney for Applicants  
Registration No. 41,668

**Customer No. 004372**  
1050 Connecticut Ave., N.W.  
Suite 400  
Washington, D.C. 20036-5339  
Telephone No. (202) 715-8492  
Facsimile No. (202) 857-6395